

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KEVIN T. MCCAGH,

Plaintiff,

v.

HORIZON LINES, LLC, a Delaware limited
liability corporation,

Defendant.

Case No. CV06-363RSL

ORDER GRANTING MOTION TO
AMEND ANSWER

This matter comes before the Court on “Defendant Horizon Lines LLC’s Motion to Amend Answer” (Dkt. # 10). Defendant seeks to amend its complaint to remove defenses in which it disclaimed responsibility for its employee’s actions. First Amended Answer, aff. def. ¶¶ 26–27. Plaintiff argues that defendant’s amendment is futile because the Court granted plaintiff’s motion to amend the complaint to include the employee as a defendant.

Pursuant to Rule 15 of the Federal Rules of Civil Procedure, leave to amend “shall be freely given when justice so requires.” Fed. R. Civ. P. 15(a). The Court follows a “strong policy in favor of allowing amendment, and considering four factors: bad faith, undue delay, prejudice to the opposing party, and the

1 futility of amendment.” Kaplan v. Rose, 49 F.3d 1363, 1370 (9th Cir. 1994). Defendant’s removal of the
2 sections of its answer which disclaim responsibility for its employee’s actions has a substantial impact on
3 the character of its defense, and therefore is not futile. There is no reason to prevent defendant from
4 dropping these affirmative defenses.

5 For these reasons, IT IS HEREBY ORDERED that “Defendant Horizon Lines LLC’s Motion to
6 Amend Answer” (Dkt. # 10) is GRANTED.

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8 DATED this 7th day of June, 2006.

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11 Robert S. Lasnik
12 United States District Judge
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